



UNITED STATES DEPARTMENT OF COMMERCE  
National Telecommunications and  
Information Administration  
Washington, D.C. 20230

ORIGINAL

Docket # 99-255

EX PARTE OR LATE FILED

Mr. Dale Hatfield  
Director  
Office of Engineering and Technology  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Mr. Hatfield:

Thank you for following our suggestions and amending the draft Notice of Proposed Rulemaking (NPRM) on medical telemetry. The National Telecommunications and Information Administration (NTIA) has reviewed the second version of the draft NPRM, *Amendment of Parts 2 and 95 of the Commission's Rules to Create a Wireless Medical Telemetry Service*, and we ask that you make some additional changes. We received the draft NPRM on June 25, 1999.

We are pleased that the proposed frequency bands have been changed following your selection from the list of bands that we suggested. On the other hand, we are asking that you change some of the language that portrays NTIA's views and positions. NTIA is very supportive of the important functions provided by medical telemetry, and has no objections to the medical telemetry needs for new spectrum.

We have distributed the draft NPRM to the federal agencies through the Interdepartment Radio Advisory Committee (IRAC) process. We have received some comments, primarily from the Department of Veterans Affairs that operates about 100 hospitals and uses medical telemetry extensively; and the National Science Foundation, representing the radio astronomy users. The comments of the Federal agencies and the NTIA suggested changes are presented in the attachment.

Let us continue to work together to provide spectrum for the medical telemetry service that is vitally important in ensuring peoples' good health and the safety of lives.

Sincerely,

*For*   
William T. Hatch  
Acting Associate Administrator

Attachment

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## ATTACHMENT

Attachment to letter from William T. Hatch to Dale Hatfield

The following are the suggested changes to the second version of the draft NPRM, *Amendment of Parts 2 and 95 of the Commission's Rules to Create a Wireless Medical Telemetry Service*, received by NTIA on June 25, 1999.

Paragraphs 16 through 21 should be replaced by the following:

16. 1385-1390 MHz and 1432-1435 MHz. These are U.S. Government bands that are being reallocated for non-government use pursuant to the Balanced Budget Act of 1997 (Balanced Budget Act).<sup>24</sup> The National Telecommunications and Information Administration (NTIA) recently expressed concerns to Commission staff about the proposed reallocation of these bands to a service in which the Commission intended to assign licenses without the use of competitive bidding. Specifically, NTIA asserted that the Balanced Budget Act requires that these bands be made available through competitive bidding and that Federal agencies required to relocate from these bands are entitled to mandatory reimbursement for their relocation costs under the Strom Thurmond National Defense Authorization Act of 1998.<sup>25</sup> Further, NTIA is concerned that high power government radars that will continue to operate below 1385 MHz could cause interference to medical telemetry equipment in the 1385-1390 MHz band.

17. NTIA noted the availability of spectrum in two adjacent bands being reallocated to non-government use under the Omnibus Budget Reconciliation Act of 1993 (OBRA 93).<sup>26</sup> Specifically, the adjacent bands are 1390-1400 MHz and 1427-1432 MHz, which have not yet been allocated to any primary service under the Commission's Rules and which the Commission is

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<sup>24</sup> Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997). The Balanced Budget Act required the Secretary of the Department of Commerce to prepare a report recommending 20 MHz of spectrum below 3 GHz for reallocation for use by other than the Federal Government. The Balanced Budget Act further requires the Commission to prepare a plan to allocate and assign those frequencies in accordance with Section 309(j) of the Communications Act of 1934, as amended.

<sup>25</sup> Pub. L. No. 105-261, § 1064, 112 Stat. 1920 (1998)(amending Section 113(g) of the National Telecommunications and Information Administration Organization Act, 47 U.S.C. § 923(g)). NTIA and the Office of Management and Budget have asserted the same view of the Balanced Budget Act requirements in an earlier proceeding before the Commission. See, *Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, Notice of Proposed Rulemaking, WT Dkt. No. 96-86, Comments of NTIA at 13 (Jan. 19, 1999); Reply Comments of NTIA at 2 (Feb. 18, 1999); Letter from Michael Deich, Associate Director for General Government and Finance, Office of Management and Budget, to Chairman William E. Kennard (Jan. 4, 1999).

<sup>26</sup> See Pub. L. No. 103-66, 107 Stat. 312 (1993).

not required to auction.<sup>27</sup>

18. 1390-1400 MHz. According to the NTIA's 1995 *Spectrum Reallocation Final Report*,<sup>28</sup> this band is used by long-range air defense radars, air traffic control facilities, military test range telemetry links, tactical radio relays, and radio astronomy. NTIA recommends that airborne and space-to-earth transmissions be prohibited to protect radio astronomy operations in the 1350-1400 MHz band.<sup>29</sup> In order to ease the transition of government operations out of this band, government operations will continue at 17 sites until the year 2009.

19. 1427-1432 MHz. The NTIA spectrum report states that this band is used by military tactical radio relay communications and military test range aeronautical telemetry and telecommand. NTIA recommends that airborne or space-to-earth transmissions in this band be avoided to protect radio astronomy operations in the adjacent 1400-1427 MHz band. In order to ease the transition of government operations out of this band, essential military airborne operations will continue at 14 sites until the year 2004. The 1427-1429 MHz band is allocated on a primary basis for use by space operations, and the 1427-1432 MHz band is allocated on a secondary basis for use by fixed and land mobile services.<sup>30</sup>

20. As stated above, we tentatively conclude that it is necessary to allocate spectrum where medical telemetry equipment can operate on a primary basis. The 608-614 MHz band appears to be suitable, since, other than radio astronomy, it is only used by medical telemetry under Part 15 of the rules. Accordingly, we propose to allocate this band to medical telemetry equipment on a co-primary basis with radio astronomy. Under this proposal, operation in this band must not cause interference to radio astronomy operations, and users will in some cases be required to coordinate their operation with radio astronomy facilities.

21. To address the concerns raised by NTIA, we propose to identify the spectrum in the 1390-1400 MHz and 1427-1432 MHz bands for medical telemetry equipment. We have devised two possible options for a frequency allocation, which are discussed below. We seek comment on which option is more suitable, or whether any other alternative frequencies would be more

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<sup>27</sup> Section 6001(a)(3) of OBRA 93 required the Commission to hold a significant portion of spectrum transferred from the government in reserve. The 1390-1400 MHz and 1427-1432 MHz bands were identified as part of the reserve by the *FCC Plan for Reallocated Spectrum*, FCC 96-125, 11 FCC Rcd. 17841 (1996). The issue of replenishment of any spectrum taken from the reserve will be addressed in a separate proceeding.

<sup>28</sup> See *Spectrum Reallocation Final Report*, dated February 1995. It is available from NTIA's internet site at <http://www.ntia.doc.gov/osmhome/reports.html>.

<sup>29</sup> It should be noted that radio astronomy operations in the 1350-1400 MHz band are not afforded any legal protection from interference.

<sup>30</sup> See 47 C.F.R. § 2.106.

suitable.<sup>31</sup>

**Reason:** Paragraphs 16, 17, and 21 need to be changed to properly portray NTIA's positions. Paragraph 20 was amended to properly present the radio astronomy and medical telemetry use of the 608-614 MHz band.

A new footnote 25 has been added to reflect NTIA's views. The former Footnote 28 is then renumbered to be Footnote 29 and revised as follows:

<sup>29</sup> It should be noted that radio astronomy observations are afforded protection under footnote US311 to the United States Table of Frequency Allocations, and international Radio Regulation 718, (new regulation S5.149) of the Radio Regulations of the International Telecommunication Union (ITU). The National Aeronautics and Space Administration also has passive earth observation satellites operating in this band following the allocation provided in Radio Regulation 720 ( new regulation S5.339). (The ITU is an international radio treaty organization of which the United States is a signatory.)

**Reason:** To correct the misconception that radio astronomy observations are not provided protection.

Replace the first sentence in paragraph 26 with:

26. Our intention is to create a Wireless Medical Telemetry Service (WMTS) that will allow medical telemetry equipment to operate in hospitals and medical facilities...

**Reason:** This change eliminates the possibility of operating "around" hospitals by using mobile equipment.

Replace the first sentence in paragraph 38 with:

38. Protection of other existing services. As stated above, the WMTS must not cause interference to radio astronomy observations, and to certain "grandfathered" government operations. ....

And add a new footnote after the word "operations."

FN# Radio astronomy observations are afforded protection under the provisions of footnote US311 to the United States Table of Frequency Allocations and by international Radio Regulation 718 (new regulation S5.149) of the International Telecommunication Union.

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<sup>31</sup> We will coordinate the proposed frequency allocation with the appropriate Canadian authorities. Given the low-power nature of this equipment, we do not anticipate any interference issues in border areas.

**Reason:** To properly recognize that radio astronomy observations have interference protection.

Page 22, footnote US246. Last sentence: Medical telemetry equipment shall not cause harmful interference to radio astronomy operations in the band 608-614 MHz and shall be coordinated under the requirements....

**Reason:** To properly recognize radio astronomy observations.

Page 31. Following the table where the address of the National Science Foundation is presented. Add the following telephone number: 703-306-1823.

**Reason:** A telephone number can accelerate the coordination process.